Whiteside & Associates

TRANSPORTATION REPORT

From: Terry Whiteside

To: Montana Wheat & Barley Committee

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STB GRAIN CAR COUNCIL MEETING - BRINGS TOGETHER RR'S, GRAIN HANDLERS AND MERCHANDIZERS AND CAR SUPPLIERS

The Railroad Shipper Transportation Advisory Council's (RSTAC) purpose is to advise Congress, the U.S. Department of Transportation and the Surface Transportation Board (STB) on rail issues affecting small shippers and small railroads.

Chairman Elliot and Vice Chairman Begeman (Co-Chair of the Car Council) were present in the Kansas City meeting on September 13th to hear the reports and discussion. Board member Mulvey was at a another meeting but was scheduled to attend later in the day.

The Council consists of 44 members including 27 from the RR's, 5 from Car supply company and 12 from Grain handlers.

Each member company gives an oral report for their company covering Service and service issues, velocity (speed of rail traffic on systems), equipment and equipment status and Rail/Shipper issues and problems. In addition, the rail carriers and the car supply companies projected looks into the future through the entire harvest season into the 1st quarter of 2012.

The Car manufactures reported on fleet size, building estimates over the next 12 months and building/supply issues.

One of the major topics discussed was the flooding in NE/IA and up and down the Missouri River this summer and into the fall including railroad responses and status of repairs. This occurred of course, after the record snowfalls in the mountains of the west and across the northern plains.   All of the railroads involved (UP, BNSF, KCS) were complementary of the joint work efforts and work arounds the neighboring railroads were able to provide to get through the crisis which lasted most of the summer. Many miles of rails were 'lifted' by up to 3 feet and several bridges were raised. BNSF reported the St. Joe line was returned to service September 3rd. All were confident that they can handle the upcoming harvest including wheat, barley, corn and soybeans. The UP reported that it has been bring cars out of storage most of the summer and rehiring crews but with the slowdown in the economy in late summer - they are not rehiring/retraining new crews and have about 1,400 cars still in storage. The other major railroads echoed that sentiment.   One of the interesting comments came from several railroads - on the value during this crisis of having alternative routes available on their systems was very helpful. KCS talked about being able to route over other railroads to provide uninterrupted service and thanked CP, UP, BNSF and Iowa Central for its cooperation.

Most of the railroads reported that they feel they will be able to handle the anticipated 'normal' harvest surges.

UP and BNSF talked about the thermal disalignment that continues to plague their rail systems in the drought stricken areas of OK and TX. The UP indicated that its velocities were down 2 mile/hr in TX due to the heat and dry weather.

Several railroads reported that they had embarked on power upgrades and many of those new locomotives were reaching their system in the 4th quarter of 2011 and the 1st quarter of 2012.

CSX talked about developing what it called customer conversations and reported that they are in the 2nd year of a 4 year car renewal program which will bring 2,500 new cars onto their system and 1800-2000 refurbishment. CSX stated that those efforts will bring 200 more cars into their fleet but they still have 25 train sets in storage due to the sluggish economy. CSX talked about weather issues in July and August that has negatively affected productivity.

NS talked about 2,100 new covered hoppers but as normal, none of the railroads talked about how many cars they were retiring that the new cars were replacing. NS did suggested that they felt that they had the best fleet in over a decade and all their lines were open in the NE part of the U.S. after the hurricane.

Most of the railroads reported that the harvests will and are generally lower than previous years with corn, wheat and soybeans leading the way.

CP gave an upbeat report on their system metrics - cycle times up 21% and DME cycle times up 17%. They also reported they are spending this year over $1 billion on infrastructure improvements.

The Red River Valley (mostly ND) suggested that 2011 was a very challenging year. First the record snow falls which lasted into the flooding. Then the heavy rains in the spring which combined with the melting snows caused 16 washouts. Even with the repairs on-going, RRV was able to report increases in 1 cycle/month on their trains.

WATCO, Genesee and Wyoming, Rail America also reported on their rail operation in the grain country.

The grain company's all reported the same or similar stories with normal to below normal harvests. The transition trauma that was associated with the rapid move to Ethanol in the corn belt is continuing to be felt all the way to the feed corn users.

For example, Cargill reported that corn is being pulled over Chicago for demand in the Eastern U.S. Thus the west to east non-traditional movement is occurring.

Wheat is facing less demand and showing diminished movement through TX.

Several grain companies talked about an elongated harvest due to early ripening in the southern plains and late planting in the northern plains. Many grain companies talked about the fact that buyers are looking further west for corn for feed.

The Grain companies continue to talk about the need better car and tracing capabilities on the rail system - real time communication on cars and delivery. For example - last load hauled for each car is becoming very important - especially given the GMO issues and foreign tests. Several talked about the need for redundancy in both information flow and car movements.

The livestock industry in the southern plains continues to very stressed.

Grain companies continue to see with price drops and smaller crops on commodities more moving into storage.

A complaint that was echoed by several grain companies was the need to have better railroad communication on when the train is moving plus real time issues that will cause increases and delays. The issue of real time communication or the lack of it is causing frustration - many promised times are missed forcing grain companies to strand elevator crews - costing both time and money. Real time reporting and more accurate ETA of arrivals and/or pickup is needed.

The car suppliers all reported that they are continuing to build cars at a brisk pace despite the sluggish economy but several wondered aloud whether that will continue if the economy continues to languish. The leasing car companies almost all reported fully or nearly fully leased up for the next twelve months indicated that rail shippers and railroads do not want to get caught without cars. CIT, GE, Chicago Car, City Corp, SC Leasing and American Rail Car all reported virtually full sold/leased (placed) cars and they are not ordering new cars at this time.

The Grain Car Council traditionally provides an education speaker and this meeting was Kendell Keith, ED of the National Grain and Feed Association. Kendell talked about the federal legislation (Chairman Rockefeller's bill S 158) that is languishing in the Congressional impasses over budgets. He focus also the Kohl Anti-Trust which brings DOJ responsibility into any future rail mergers. The Goal of the grain shippers is receive cost effective service and stay competitive globally. He reiterated a comment heard repeatedly at the Ex Parte 705 STB hearings on Rail Competition about switching issues on railroads are blocking access, and accessorial charges are aggravating the disparity. The goal of the STB should be to maintain the competition that exist today and work to increase competition for agricultural shippers. It may be that farm policy, according to Kendell, may look closely at CRP acres which took 30 million acres out of production. Kendell estimates 15 million of those acres would be OK for production. He stated that NGFA may try to convince Congress to take off the penalties associated with bringing CRP back into production. Kendell talked about the Ag Transportation Working Group and predicted that since the Working group continues to have producers more and more interested in the complexities of transportation legislation. NGFA will also be studying the Kohl anti-trust legislation and evaluating its position on the legislation - one that NGFA has not heretofore taken a position on.

BNSF PUBLISHES A GRAIN RATE INCREASES EFFECTIVE JANUARY 1, 2012

BNSF has posted new Shuttle rates that will go into effect January 1, 2012. It has not yet published the 48 car rates for January 1, although it not clear what the changes will be in shuttle vs. non-shuttle differentials.

The 268,000 pound C6 shuttle cars will see an increase of $80.00 per car or 2 cents a bushel and the 286,000 pound C6X Shuttle Cars will see an increase of $111 to $122 per car or 3 cents a bushel.

This increase applies to northern (MN, ND, SD, MT, WA, ID and MB) westbound movements to the PNW.

Look for increasing rates for the southern movements in the coming weeks.

FORTUNE MAGAZINE PUBLISHES A ARTICLE ON RAILROADS, ENTITLED, "RAILROADS: CARTEL OR FREE MARKET SUCCESS STORY", DATED SEPTEMBER 13 AND IN THE SEPTEMBER 26TH EDITION.

This is an interesting article because of the **balance**. The article is available at:
http://features.blogs.fortune.cnn.com/2011/09/13/showdown-on-the-railroad/

It starts by posing a position, "**With 90% of U.S. rail freight now controlled by only four companies, shippers claim the giants have unfairly banded together. Unapologetic railroads refuse to back down. An epic battle of business vs. business**."

Business vs. business. The article first outlines a company called **M&G Polymers' factory** in Apple Grove, W.Va., They describe how this company's long-term rail contract expired at the end of 2008 and the railroad nearly doubled their rates because they are captive.

As Fred Fournier, M&G's sales chief opines..."When M&G protested the hike, he says, the railroad's response could be summed up in three words: "Because we can." Desperate, Fournier lobbied CSX to lower its rates. He visited the railroad's headquarters and all but begged. He claims he even chased down a CSX executive at an airport in Charlotte. To no avail. In 2010, West Virginia's then governor, Joe Manchin, heard about M&G's plight and invited executives to dinner at his mansion with Michael Ward, the CEO of CSX. The governor conciliated the two sides. But the glow didn't last long: After the dinner, CSX once again refused to slash its price."

"It's a war that pits business against business, and the central charge is one that would've been familiar to Rockefeller: monopoly power. Since freight railroads were deregulated in 1980, the number of large, so-called Class I railroads has shrunk from 40 to seven. In truth, there are only four that matter: CSX and Norfolk Southern (NSC) in the East, Union Pacific (UNP) and Burlington Northern Santa Fe in the West. These four superpowers now take in more than 90% of the industry's revenue. And they're shielded by a potent advantage: an exemption from key antitrust laws. Not coincidentally, the Big Four's profits and stock prices have soared; their success was ratified when Warren Buffett's Berkshire Hathaway (BRKA) purchased Burlington Northern Santa Fe for $26 billion in 2010."

"Shippers claim the railroads have amassed too much power and the gaudy profits prove they're gouging customers. The railroads scoff, pointing to modest returns on capital. Over the past 30 years they have invested some $480 billion in their equipment and tracks. With the nation's highway system deteriorating, they'll need to spend even more, says CSX's Ward, but they won't be able to if regulators crack down. "If we make less money," he says, "we will have to invest less, period.""

"Skirmishes have broken out on multiple fronts. Battles are being waged at the Surface Transportation Board (STB), an obscure federal agency tasked with overseeing the industry; in Congress, where senators are proposing bills that would reregulate the rails; and in court, where a group of shippers has filed a class action accusing the railroads of a conspiracy to fix prices. "It's below the surface, but it's intensely being fought," says Bob Szabo, a longtime lobbyist who works with utilities and manufacturers. "To the shippers, this is all very easy to see," he says. "You have four big railroads that divide the country up. What's complicated about that?"" ...

"Salvation came in 1980 with the Staggers Act, a law that, coupled with the earlier Railroad Revitalization and Regulatory Reform Act, granted the freedom to shed tracks and workers, set rates, and enter into long-term contracts. The railroads embarked on a wave of mergers and cost-cutting. They passed on most of those savings to shippers, chopping rates to win back business from trucks."

"Then, in 2004, the dynamic changed. Rail prices, which had been steadily declining since 1980, suddenly reversed course. For the next seven years rail rates steadily marched upward at a rate of 6% a year, according to Scott Group, an analyst at freight research firm Wolfe Trahan. By comparison, prices for trucking and air freight have increased by about 1% to 2% a year."

"Shippers of all stripes cried foul -- but none more so than captive companies like M&G, which say they have borne the brunt of the rate hikes. As the number of railroads has decreased, the number of captive shippers has grown. Szabo, the shippers' lobbyist, estimates that more than one-third of all shippers are now served by only one railroad."

"Their rates are skyrocketing. OxyChem, a division of Occidental Petroleum (OXY), says its rates have jumped by as much as 160% over the past five years. Dairyland Power, a utility in Wisconsin, reported a single-year increase of 93%. Chemical maker PPG Industries (PPG) says the rates it pays to ship chlorine, which must be moved by train, have climbed more than 100% since 2004. By contrast, the rates it pays for other chemicals that have alternate transportation options have risen by just 20%."

"And rates tell only part of the story. Like airlines, freight railroads now impose a bevy of "extra" fees, such as charges for storage and the diesel fuel that powers their engines. The carriers have also raised indirect costs by pushing customers to provide their own train cars."

"The railroads' power is amplified by an unparalleled set of antitrust exemptions. The industry's regulator, the STB, permits several practices that severely restrict competition: The Big Four are allowed to sign secret agreements, known as "paper barriers," with short-line railroads, in which the small fry agree to funnel all their traffic to just one big railroad. They are also permitted to refuse to connect customers to a competing freight line."

"If these long-held, special protections weren't in place, the Justice Department has said, such practices could violate antitrust law. Indeed, 20 state attorneys general have protested the railroad exemptions. And in 2008 the American Bar Association's Section on Antitrust Law blasted them as "naked economic protectionism."

"Railroad executives point out that unhappy customers can file complaints with the STB, which can reduce a shipper's rates and make a railroad pay reparations if a shipper can prove that the carrier is dominant and charging more than 80% above its costs."

Flash:

Tomorrow, Wednesday, September 28, at 9:15 am eastern time, Mina Kimes of Fortune magazine will appear on C-SPAN's Washington Journal to discuss the excellent article she wrote about railroad monopolies. Below is information on her appearance

"Mina Kimes of Fortune magazine will join us this Wednesday to discuss her piece about the railroad industry. From Kimes' piece: 'With 90% of U.S. rail freight now controlled by only four companies, shippers claim the giants have become a cartel. The railroads say they're a free market success story. Skirmishes have broken out on multiple fronts. Battles are being waged at the Surface Transportation Board, an obscure federal agency tasked with overseeing the industry; in Congress, where senators are proposing bills that would reregulate the rail; and in court, where a group of shippers has filed a class action accusing the railroads of a conspiracy to fix prices.' Read the article by our guest (http://features.blogs.fortune.cnn.com/2011/09/13/showdown-on-the-railroad/), Mina Kimes, and join us with your questions and comments."

Please tune in to this segment and be prepared to call with questions and comments for Mina. This is an excellent opportunity for rail dependent shippers to weigh in, and increasingly important should those supporting the status quo dominate the airwaves. Below is the website and call-in information.

Schedule/Webcast link:
http://www.c-spanvideo.org/schedule/?zoom=0&timezone=Eastern&date=Sep+28%2C+2011
Call-In Numbers:
Democrats: (202) 737-0001
Republicans: (202) 737-0002
Independents: (202) 628-0205
Email: journal@c-span.org

The entire article is a good read and probably one of the more balanced article framing the issue of Business(railroads) vs. Business (Rail shippers/customers) that has been published in the past few years.